

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

JOHN DOE,	)	
Plaintiff	)	
	)	
v.	)	CASE NO. 3:21-cv-00144-TWP-CSW
	)	
UNIVERSITY OF SOUTHERN INDIANA,	)	
<i>et al.</i> ,	)	
Defendants.	)	

**PLAINTIFF’S DOCKETING STATEMENT**

Comes now the Plaintiff, John Doe, by counsel, and respectfully submits this Docketing Statement pursuant to Seventh Circuit Rules 3(c)(1) and 28(a).

**I. District Court Jurisdiction**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant University of Southern Indiana (“USI”), filed its Notice of Removal of this action from the Vanderburgh County, Indiana, Circuit Court. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 based on the existence of a federal question under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.*

**II. Appellate Court Jurisdiction**

This is an appeal of the Order Granting Defendant Motion to Dismiss Plaintiff’s Title IX Injunctive Relief Claim for Lack of Standing (“Order”) entered on the docket of the United States District Court for the Southern District of Indiana on July 23, 2024. [Dkt. 448]. Pursuant to the Order, the claims currently remaining are Count I: Violation of Title IX against USI for damages only, Count II: Claims under 42 U.S.C. § 1983 against Karen Nutter, and Count III: Intentional Infliction of Emotional Distress against Karen Nutter and Grand River Solutions. No motion for a

new trial or alteration of judgment or other motion tolling the time within which to appeal has been filed. Plaintiff timely filed his Notice of Appeal on July 29, 2024.

The Seventh Circuit Court of Appeals has jurisdiction over this appeal pursuant to 28 U.S.C. §1292(a)(1), which establishes jurisdiction of appeals from “[i]nterlocutory orders of the district courts...granting, continuing, modifying, refusing or dissolving injunctions....” The Seventh Circuit stated in *Holmes v. Fisher*, “Section 1292(a)(1) is decently plain: all interlocutory orders denying injunctions are appealable.” 854 F.2d 229, 231 (7<sup>th</sup> Cir. 1988) (Order dismissing claim for equitable relief on a 42 U.S.C. § 1983 claim was immediately appealable even though request for damages remained pending.) “Although the request for money is pending, a conclusive denial of all equitable relief is appealable even though a request for damages lives on.” *Id.* at 230. “Asking whether an order plainly denying an injunction also caused irreparable injury would add a gratuitously complicating factor to the simple statutory rule. We therefore ... hold that an order denying injunctive relief is immediately appealable even though a request for damages remains pending. *Id.* at 232.

Accordingly, the Order’s conclusive denial of all injunctive relief under Plaintiff’s Title IX claim against USI is immediately appealable under Section 1292(a)(1), as confirmed by this Court’s holding in *Holmes*.

### **III. Prior or Related Appellate Proceedings**

On May 17, 2022, John Doe filed his Notice of Appeal from the District Court’s Entry Denying Plaintiff’s Motion for Preliminary Injunction which was entered on May 10, 2022. This prior appeal was captioned *John Doe, Plaintiff-Appellant, v. University of Southern Indiana, Defendant-Appellee* and assigned Case No. 22-1864. The Seventh Circuit Court of Appeals issued its opinion on August 8, 2022.

On July 18, 2024, John Doe filed his Notice of Appeal from the District Court's Order on Plaintiff's Objection to Magistrate Judge's Order on Plaintiff's Use of Pseudonym entered July 11, 2024 [Dkt. 440], overruling Plaintiff's Objection to the Magistrate Judge's Order on Plaintiff's Use of Pseudonym dated June 11, 2024 [Dkt. 431]. This appeal was captioned *John Doe, Plaintiff-Appellant v. University of Southern Indiana, et al., Defendants- Appellees* and assigned Case No. 24-2245. This appeal remains pending. Appellant's brief is currently due September 3, 2024.

There are no other related appellate proceedings.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on July 29, 2024, a copy of the foregoing document was filed electronically.

Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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